

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/199,933 11/25/98 BURT

K 1002-124B

PM92/0202

EXAMINER

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LAGMAN, F

ART UNIT PAPER NUMBER

3673

DATE MAILED:

02/02/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. 09/199,933	Applicant(s) Burt
Examiner Frederick L. Legman	Group Art Unit 3673

Responsive to communication(s) filed on \_\_\_\_\_.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-20 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3673

## **DETAILED ACTION**

### ***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lewis #5,333,971. Lewis discloses a retaining panel made from plastics or fiberglass, the panel comprising a central portion 18, first and second side portions 17, and first 14 and second 16 flanges, said first and second flanges including either a male 30 or female 32 connecting portions which allows for connection to a similar adjacent panel. The panel has a substantially uniform thickness, the side portions extend from the central portion at the same angle, the central portion has a substantially level outer surface, the first and second portions having intermediate sections that have substantially level outer surfaces, and the proximal portions of the flanges have

Art Unit: 3673

substantially level outer surfaces, and wherein the central portion is approximately parallel to the proximal portions of the flanges.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yeates et al discloses a panel (see figures 5e and 5f) which reads on claims 1-20 as broadly recited. Hobbs, Oberschulte, and Hilpert disclose panels which read on claims 1-12, 14-17 and 19 as broadly recited; furthermore, claims 13, 18, and 20 which includes the limitation of the panel being made from PVC would be met by Lewis, Wickberg, or Yeates et al.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick L. Lagman whose telephone number is (703) 305-7456.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Eileen Lillis, can be reached at (703) 308-3248. The fax phone number for this Group is (703) 305-7687.



Eileen Dunn Lillis  
Primary Examiner

FLL

January 28, 2000